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Journal

Office of Legislative Counsel

Wednesday - 1 June 1955

1. I talked with Mr. David Carper, of the House Legislative Counsel's Office, regarding the technical drafting of the retroactive provision of the proposed Federal employees pay bill, H. R. 6511.

Section 8(c) of this bill stated that "nothing contained in this section shall affect the authority contained in any law pursuant to which rates of compensation may be fixed by administrative action." However, Mr. Warner, the Acting General Counsel, felt that a question could arise concerning Section 8(a). The proposed wording, by authorizing the payment of the salary increases proposed by this bill on a retroactive basis, but including a limitation that the amounts which could be paid pursuant to administrative action could not exceed the increases provided by this act, could be construed as placing a ceiling on the present unlimited legal authority of CIA.

Mr. Warner suggested that the word "affect" should be changed to "limit". Mr. Carper disagreed strongly with this interpretation. He stated that 8(a) was completely permissive rather than directive, and that 8(c) was designed to eliminate any possibility that 8(a) affected any current authority; that if one proceeded under 8(c), 8(a) could be disregarded completely; and that the proviso that the amount of increase could not exceed the increases authorized by this bill referred only to the amount of retroactive increases and not to any subsequent rate of pay which might be fixed by administrative action. Mr. Carper felt that any other reading of the provision was inaccurate, but stated that if we felt strongly about it he would concur to the addition of the words "or limit" following the word "affect" in Section 8(c). Mr. Warner is still of the opinion that the use of the word "affect" is poor drafting and that to avoid any question the phrase "or limit" should be added. (This position had also been concurred in by Mr. Martini of the GAO).

In view of this position, I have advised Mr. Johnson, of the staff of the House Post Office & Civil Service Committee, of our feelings in this regard, and have asked him to include the phrase "or limit", and he has agreed to bring this to the attention of the Chairman for inclusion.

(cc - Director of Personnel)

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